

**Before the  
Federal Communications Commission  
Washington, D.C. 20554**

In the Matter of	)	
	)	
Unbundled Access to Network Elements	)	WC Docket No. 04-313
	)	
Review of the Section 251 Unbundling	)	CC Docket No. 01-338
Obligations of Incumbent Local Exchange	)	
Carriers	)	

**Initial comments of the Public Utility Commission of Oregon**

The Public Utility Commission of Oregon (PUC) submits the following information to aid the FCC (Commission) in the above-captioned proceedings:

1. The PUC opened an investigation of impairment for mass market switching in response to a petition filed by Qwest Corporation. The investigation was closed on June 23, 2004, in light of the decision of the United States Court of Appeals for the District of Columbia to allow its mandate in USTA II to take effect on June 15, 2004. At the time the investigation was closed, the parties had conducted some discovery, but no testimony was filed, no hearings were held, no record was created, and no conclusions were reached by the PUC.
2. The PUC did not open an investigation of impairment for high capacity dedicated transport and enterprise loops. Qwest Corporation did not challenge the Commission's impairment findings with regard to these network elements in Oregon.

We urge the Commission to affirm its findings of impairment for mass market switching, high capacity dedicated transport, and enterprise loops. The growth of competition in Oregon has been steady, particularly for business services. Since 1999 we have done an annual survey of companies certified to provide telecommunications service in Oregon. Our surveys show the total CLEC share of switched access lines has grown from 6 percent to 14 percent. The CLEC share of business switched access lines has grown from 11 percent to 30 percent. We are especially concerned about the affect the loss of dedicated transport and enterprise loops would have on business competition. Even competitors with their own switches are heavily reliant on these network elements.

One such CLEC is Integra Telecom, an Oregon-based CLEC operating in five states. We urge the Commission to carefully consider Integra's comments in these proceedings. In its comments, Integra presents a substantial impairment analysis for dedicated transport and enterprise loops under section 251(d)(2)(B) of the Telecommunications Act of 1996.

We believe this analysis demonstrates that companies such as Integra are impaired without access to these network elements. We believe Integra has provided compelling evidence that it has no practical and economic alternative to buying transport from Qwest and Verizon. We are also persuaded that purchasing special access is not a reasonable alternative.

Regarding enterprise loops, Integra demonstrates that 99.9999 percent of loops used by its customers were provisioned by an ILEC, and that CLECs that have tried to self-provision loops have suffered insolvency. This provides strong evidence for maintaining the enterprise loop as an unbundled network element.

In its comments, Integra also address the matter of pricing for section 271 network elements. We endorse Integra's request that the Commission choose one of the following alternatives for the pricing of such elements: (1) the prices for network elements in place when a BOC received section 271 approval; (2) prices based upon the TELRIC methodology in place when a BOC received section 271 approval; or, (3) the network element prices that BOCs impute to themselves when determining their own retail pricing.

Finally, we want the Commission to understand our view that line sharing must be retained as an unbundled network element. Our view is based heavily on our desire for every Oregonian to have access to broadband service. We have found that not all ILECs are willing to offer DSL service in rural Oregon. We are convinced that entrepreneurial CLECs will be severely hampered in their efforts to provide DSL in these rural areas without access to line sharing. The retention of line sharing would also encourage competition for broadband customers in urban areas.



Lee Beyer  
Chairman



John Savage  
Commissioner



Ray Baum  
Commissioner